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May 24, 2002

Ex Parte

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: <u>Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charge (SLC) Caps – CC Docket Nos. 96-262, 94-1</u>

Dear Ms. Dortch:

The Maryland Office of People's Counsel (MOPC) and National Association of State Utility Consumer Advocates (NASUCA) respectfully submit these Ex Parte comments concerning the ongoing cost review proceeding for residential and single-line business SLC caps.

Pursuant to FCC Rule 1.49(f) this Ex Parte is being filed electronically via the Electronic Comment Filing System for inclusion in the public record of the above referenced proceedings pursuant to FCC Rule 1.1206(b)(2). Additionally, two copies are being submitted to your office for each of the above-referenced dockets.

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Thank you for your consideration. Should you have any questions concerning the issues presented in this filing please do not hesitate to contact me at the above number or David Gabel on 617-243-0093.

Very truly yours,

Michael J. Travieso

Michael J. Travieso
People's Counsel

Attorney for National
Association of State Utility
Consumer Advocates
(NASUCA)

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Ex Parte

CC Docket Nos. 96-262, 94-1

Cost Review for Residential and Single-line Business SLC Caps

The comments previously filed on behalf of MOPC/NASUCA in this proceeding[1] demonstrate that there is no legal or economic basis that justifies the scheduled increase to the residential and single line business SLC caps. The arguments presented by NASUCA are fully supported by record evidence and publicly available data, and will not be repeated here. However, we would like to take this opportunity to address and clarify the following points:

1. The Synthesis Model is the Preferred Model.

Many parties agree that the Synthesis Model, rather than the ILECs' cost estimates, is the preferred model to use in this proceeding. The Synthesis Model is superior to the other models on record because it is designed to provide voice grade access to the public switched network[2] and because the entire model, including its source code, is in the public domain. Therefore, any interested party had ample opportunity to run the Synthesis Model after downloading it from the FCC's web page. The openness of the model also allowed parties to review all calculations and scrutinize the model's well-documented inputs without having to enter into a proprietary agreement. Furthermore, the courts have supported the FCC's use of this model.

None of the alternative models proposed in this proceeding can claim the many positive attributes of the Synthesis Model. On the contrary, the models supported by the ILECs in this proceeding are by and large black boxes that have been rejected time and again by state commissions for poor performance due to methodological flaws and faulty inputs. For sure, if the ILEC's models unequivocally supported raising the residential and single line business SLC caps then these models, their inputs, and source code would have been submitted for all interested parties to review. This is clearly not what has happened in this proceeding as only the Synthesis Model was made available to all interested parties. The Synthesis Model, as presented by MOPC/NASUCA, is clearly the preferred model for the FCC to utilize when deciding if it is appropriate to raise the residential and single-line business SLC caps. Furthermore, in the companion interstate universal service proceeding, all parties agree that the model should be used to identify the level of costs associated with providing retail voice service. It logically follows that if the model will be used to determine high cost areas, it should also be used to determine which areas are low cost areas and for which there is no economic basis for raising the SLC.

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[1] See: Comments and Reply Comments of The National Association of State Utility Consumer Advocates (NASUCA) filed on January 24, 2002, and February 14, 2002 respectively.

[2] Models that are designed to provide advanced services overestimate the cost of providing common line access.

2. Raising the SLC Cap Would Be Contrary to the CALLS Order.

MOPC/NASUCA's analysis has shown that 77 percent of residential and single-line business access lines have an interstate cost of less than $5.00. Allowing the SLC cap to increase for these customers would increase the implicit subsidies already inherent in the current charge. This is in direct conflict with the CALLS order which explicitly stated that its purpose was to "identify implicit universal service support and to remove such implicit support from our interstate access charges."[3]

Furthermore, it is likely that more than 77 percent of residential and single-line business access lines have an interstate cost that is less than the applicable SLC cap. Our estimates are biased downward because, due to limitations in available data, we included non-primary residential lines in our calculations. The SLC for a number of non-primary access lines was assumed to be only $5.00 when it is actually capped at $7.00. Therefore, the percentage of lines whose economic cost is greater than the current SLC caps is less than the 23 percent previously reported.

3. This is a Cost Review Proceeding.

The purpose of this proceeding is explicitly stated in the CALLS Order:

> "As set forth in the CALLS Proposal, we shall review any increases to residential and single-line business SLC caps above $5.00 to verify that any such increases are appropriate and reflect higher costs where they are to be applied. We will initiate and complete a cost review proceeding prior to any scheduled increases above this cap taking effect to determine the appropriate SLC cap. For this proceeding, the price cap LECs have agreed to provide, and we will examine, forward-looking cost information associated with the provision of retail voice grade access to the public switched telephone network. We will address in that proceeding whether an increase in the SLC cap above $5.00 is warranted and, if not, whether a decrease in common line charges is warranted."[4]

Nowhere in the Order initiating this proceeding,[5] which quotes the passage above, is it even suggested that this proceeding is anything more than a forum to determine if there is an economic basis for raising the residential and single-line business SLC caps.

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[3] In the Matter of Access Charge Reform (CC Docket No. 96-262), Price Cap Performance Review for Local Exchange Carriers (CC Docket No. 94-1), Low-Volume Long-Distance Users (CC Docket No. 99-249), and Federal-State Joint Board On Universal Service (CC Docket No. 96-45). Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45. Adopted: May 31, 2000, Released: May 31, 2000. ("CALLS Order") at para. 25.

[4] CALLS Order at para. 83 (footnotes omitted)

[5] See DA 01-2163

Therefore, as noted by Qwest, any suggestion that the purpose of this proceeding is to initiate revenue neutral rate rebalancing is preposterous.[6]

4. Maintaining the Current SLC Caps Does Not Preclude Recovery of CMT Revenues.

In the event the FCC decides not to raise the residential and single-line business SLC cap such a decision does not mean that the ILECs will not recover expected CMT revenues. This is because the Presubscribed Interexchange Carrier Charge (PICC) is a payment from Interexchange Carriers (ICXs) to Local Exchange Carriers (LECs) that allows LECs to recover the difference between the average embedded CMT cost per line and the applicable residential SLC cap. For example, if the CMT embedded cost per line is $6.25 and the residential SLC is $5.00, the per line residual embedded cost is $1.25 (i.e. $6.25 - $5.00). This money is then recovered from IXCs through application of the PICC.

Furthermore, if the estimated PICC should happen to exceed the PICC Cap of $4.31 then the LEC can still use the Common Carrier Line Charge (CCLC) to recover any portion of the CMT cost per line that is not covered by the interstate access support fund.

5. The Analysis Provided By MOPC/NASUCA Is Comprehensive.

The analysis provided by MOPC/NASUCA provides cost estimates for all companies modeled by the FCC's Synthesis Model, except where inconsistencies in or the lack of sufficient data precluded such calculations.

According to the USAC Administrative Filing, Appendix HC10 (4th Quarter 2001) there are 87 eligible telecommunications carriers participating in the forward-looking model program for which there exists a model run.

Of these 87, 6 rate of return carriers are not eligible for CALLS support. (These are Anchorage, Roseville, NorthState, ALLTEL of Ohio, Puerto Rico Central, and Puerto Rico Telephone.)

Another carrier, Valor of Oklahoma, was eliminated because of concerns about the consistency of this observations dataset as a result of changes in ownership.

This left 80 Carriers that (a) were non-rural, (b) were price cap, (c) had model runs, (d) were eligible for interstate access support, and (e) for which continuous data could be found for the period MOPC/NASUCA investigated.

Four additional carriers were subsequently dropped because their UNE zones were aggregated below the wire center level.[7]

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[6] See Qwest Reply Comments filed February 14, 2002, at page 19.

[7] These study areas were QWEST Wyoming, Montana, Arizona, and Colorado. Contel of MN was also excluded from these calculations because it was removed from USAC Administrative Filing, Appendix

MOPC/NASUCA did not provide cost estimates for companies not covered by the Synthesis Model. That said, none of these carriers submitted their own forward-looking cost estimates.

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Respectfully submitted,

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HC10 after being sold to Citizens. A description of our study methodology can also be found in our comments filed on January 24, 2002, beginning at page 39.